

United States District Court
for the
Southern District of New York
Related Case Statement

Full Caption of Later Filed Case:

Accent Delight International Ltd. and
Xitrans Finance Ltd.

Plaintiff	Case Number
vs.	18 Civ. ____
Sotheby's and Sotheby's Inc.	
Defendant	

Full Caption of Earlier Filed Case:

(including in bankruptcy appeals the relevant adversary proceeding)

In re Application of Accent Delight
International Ltd. and Xitrans Finance Ltd. for
an Order Under 28 U.S.C. § 1782 to Conduct
Discovery for Use in Foreign Proceedings

Plaintiff	Case Number
vs.	16-MC-125
Defendant	

IH-32

Rev: 2014-1

Status of Earlier Filed Case:

☐

Closed

(If so, set forth the procedure which resulted in closure, e.g., voluntary dismissal, settlement, court decision. Also, state whether there is an appeal pending.)

☒

Open

(If so, set forth procedural status and summarize any court rulings.)

16-MC-125 is a consolidated case comprising two applications for discovery under 28 U.S.C. 1782 brought by Accent Delight International Ltd. and Xitrans Finance Ltd ("Plaintiffs").

Judge Furman granted the first application. That decision was affirmed on appeal. He later granted Plaintiffs' two motions under the Protective Order to allow use of the discovery material in other foreign proceedings. Judge Furman's order granting the second of those two motions is now on appeal to the Second Circuit.

Judge Furman granted the second 1782 application in part. That decision is on appeal to the Second Circuit.

Explain in detail the reasons for your position that the newly filed case is related to the earlier filed case.

In the earlier filed 1782 proceedings, Plaintiffs sought discovery from Sotheby's for use in foreign proceedings against Yves Bouvier. Those foreign proceedings concern an international, multi-billion-dollar fraud perpetrated by Bouvier against Plaintiffs. Bouvier held himself out as Plaintiffs' representative in a series of transactions to acquire art masterworks. Unbeknownst to Plaintiffs, however, Bouvier was purchasing the works for himself and reselling them to Plaintiffs at a significant markup, pocketing the difference.

The discovery material produced by Sotheby's led Plaintiffs to conclude that they had claims against Sotheby's for aiding and abetting Bouvier's fraud. The newly filed case is a merits action against Sotheby's asserting those claims. Plaintiffs had previously tried to file suit against Sotheby's in England, but Sotheby's raced to the courthouse in Switzerland as a blocking tactic. This procedural history, with which Judge Furman is familiar, is directly relevant to Petitioners' claims against Sotheby's for breach of the parties' tolling agreement, as well as to other potential issues in the case.

Judge Furman will also need to decide whether Plaintiffs can use the discovery material produced in the earlier filed case to plead their claims in the newly filed case. Concurrent with this filing, Plaintiffs are making a motion under the protective order in the earlier filed case for permission to do so.

Signature:



Emery Celli Brinckerhoff & Abady LLP

Date: 10/2/2018

Firm: